

# **LABOR MANAGEMENT RELATIONS QUARTERLY MEETING**

HALL OF THE STATES BUILDING  
444 NORTH CAPITOL STREET, NW  
WASHINGTON, DC  
NOVEMBER 17 - NOVEMBER 19, 1998

## **PARTICIPANTS:**

### MANAGEMENT:

Ron Thompson  
Joe Chapin  
Phillis Morgan  
Don Laliberte  
James McPherson  
Regina Sullivan  
Dan Joslin  
Manny Cobos  
Nikki Gallo

### UNION:

Jim Turner  
Larry Raney  
Dennis Biesik  
Manny Borquez  
Paul Rissler  
Charlie Bohannon  
Jeff Rich  
Dave Gardner

### **Subject Matter Experts:**

Debbie Ellegood  
Scott Dodrill  
Bob Newport  
Joe Jones  
Ron Frazier  
Connie Way Gaston  
Mina Raskin  
Andrea King-Wessels  
Rod O'Connor  
Robin Gladden  
Pete Wittenberg  
Dave Good  
Thurman Robbins  
Al Garcia

**POLICIES NEGOTIATED**

**SEE SEPARATELY ATTACHED POLICY NEGOTIATION NOTES ON:**

P.S. 5214.04:	Procedures for Handling of HIV Positive Inmates
P.S. 1210.08:	Management Control and Program Review
P.S. 5251.XX:	Inmate Work and Performance Pay Program
P.S. XXX-98:	Worker-Trainee Employment Program
P.S. 3420.XX	Standards of Employee Conduct
	Facilities Development Technical Reference Manual
	Employee Speeches and Publications Review Process

## **Summary of Issues Addressed During LMR Meeting:**

Alternative Dispute Resolution  
Budget  
Certified Mail for Local Policies  
Compensatory Time  
Compliance with the Master Agreement  
Compressed/Flexible Schedules  
Credit for Non-Custody Staff  
Designated Foot Hazard Areas  
Domestic Violence  
Employee Speeches and Publications Review Process  
Executive Staff Moves  
Executive Staff Decisions  
Facilities Development Technical Reference Manual  
Favoritism Toward Employees  
Foreign Language Award Data  
Greenville Employees  
HRM Workgroups  
Inmate Work and Performance Pay Program  
LMR Quarterly Meeting Dates  
Management Control and Program Review  
Payment of FMCS Arbitrators  
Policy Development and Approval Process  
Procedures for Handling of HIV Positive Inmates  
Roster Changes  
Smoke Free Workplace Workgroup  
Standards of Employee Conduct  
Union's Responsibility to Participate on Workgroups  
Vacating Posts  
Worker-Trainee Employment Program

## **National Agenda Items: MANAGEMENT**

### 1. **Presentation on Alternative Dispute Resolution**

**Who:** Mina Raskin, OGC

Management explained the Bureau's thoughts regarding alternative dispute resolution (ADR), e.g., how the Agency needs to find out, with the Union's participation, details of other agencies' ADR programs, how the Agency and the Union can make ADR work, where we need to start, etc. The idea would be to start with the Bureau's EEO program since the current program is extremely lengthy and the resolution for the employee is not always positive or timely. The ADR process was explained in detail. It was made clear that the Union would be involved from the beginning in the activation of this program.

Both Management and the Union believe that mediation, whether formal or informal, saves money, time, bad feelings, and the embarrassment of having to go in front of a third party. The Union was in general support of ADR and said that they would provide Management with a Union representative to work at developing the program.

### 2. **Presentation on Policy Development Process**

**Who:** National Policy Review Staff:  
Andrea King-Wessels  
Robin Gladden  
Rod O'Connor  
Pete Wittenberg

Topics which were discussed were BOPDOCs and the current policy clearance process, the clear writing initiative, the purpose of Operations Memorandums and Technical Reference Manuals, and the planned implementation of a simpler clearance process (consolidated from 7 stages to 3 stages).

Management encouraged the Union to be part of the clearance process at an early stage and to contact NPR staff for clarification along the way.

### **National Agenda Items: UNION**

1. **ISSUE:** Request for FY98 data on Foreign Language Awards from Western Region and BOP nationwide statistics.

**Response:** Information for FY96, FY97 and FY98 was provided to the Union after the conclusion of the meeting.

2. **ISSUE:** Status of the first HRM workgroup that Jim Turner was a member of. He expressed several concerns regarding *People Soft* and the plans to eliminate staff usage of personnel.

**Response:** Management stated that the Re-Engineering Workgroups currently in existence (one of which Jim Turner is a member) were an extension of that first workgroup and thus, the initial HRM workgroup no longer exists as such. The Union was satisfied with this information.

3. **ISSUE:** The Union is again asking to be brought in on the employee evaluation program at the ground level to address Union and Management concerns.

**Response:** Management stated that they are still evaluating the options for this program and that there is no established time frame. The Union made no further inquiry into this issue.

4. **ISSUE:**
- A. FCI Loretto - Flexible schedules being denied in ISM. Management at Loretto states that there are no Flextime positions in that department. No relief is needed and it is not a 24-hour operation; this makes it possible for flextime.
  - B. FCI McKean - Compressed schedule approval/disapproval is not being returned from the Central Office in a timely manner. The schedule was put in April 21, 1998. This schedule is for Facilities and Power House.

**Response:** The Union expressed a concern about how long schedules are taking to get approved at the Central Office level when they are being reviewed solely for legal purposes. Management responded by saying that the regions had been holding onto the schedules and it

was not until recently that the Central Office became aware of this. This issue has been rectified and OGC has reviewed and/or is in the process of finalizing the review of schedules. The Union provided documentation to Management to show them how the process is getting slowed down, e.g., working papers and forms which are being required. Management stated that it is the requirement of the supervisors, not the employee, to establish a report or survey to assess sick leave use, annual leave use, etc. in order to follow-up on the effectiveness of the compressed work schedule. Both Management and the Union agreed that all staff are simply trying to get used to the new process in general. In addition, Management stated that they have been informing Human Resource staff in the field of the obligation to follow the Master Agreement in regard to the compressed work schedules and that the "approval" of the Regional Office is not part of the formal process. Also, Management has been reminding staff of this during occasions such as Wardens and Associate Wardens conferences.

5. **ISSUE:** What is the status of the non-smoking workgroup that Jim Turner was a member of, which never met? The Union wishes to discuss smoking policies at the facilities that were implemented after they were notified of the workgroup.

**Response:** Management informed the Union that the Department of Justice recently returned the draft Program Statement to the Bureau after its review. It is now in the Office of General Counsel and will be routed to the Union for appropriate review. The current policy is an old policy, but it remains in effect until the new policy gets approved.

**Note:** Management in the Health Services Division also informed the Union that there is now a template for the Medical Bylaws and that this will go to the Union for their review sometime in December 1998.

6. **ISSUE:** Status of Information Request pertaining to the Agency and the Department of Justice not representing the employees at Greenville... the Union would like the Agency to show just cause as to why these employees are not being represented in the civil case brought on by inmates.

**Response:** The Union's concern is that if this is allowed to happen, i.e., that staff are not being represented by the Agency in such an event, this will continue to happen and staff will have no protection against lawsuits from inmates. The Union believes that the Agency has not shown just cause in their actions. Management responded with information regarding the fact that the Bureau does not make the determination as to whether or not an employee receives representation. This is dictated by government regulations and is discretionary. If an employee is denied representation, according to the Department of Justice, it is because "the employee did not act within the scope of his or her duties when the event in question was taking place or it is not in the interest of the government". Additionally, Management showed that there were 15 employees who did receive representation and several others who were afforded private legal representation at the government's expense. The Union asked why, if the FBI and others did an investigation and found no wrongdoing on the part of the employee, that employee was still denied representation. Management stated again that this is not a Bureau of Prisons determination. The Union contends that staff are being told during Annual Refresher Training that they will be represented by the Bureau. However, in light of the Greenville cases, staff do not want to respond to emergencies because of the fear of not being represented if something happens. Both Management and the Union believe that there is a perception problem in the field that needs to be changed. The Union is still planning on proceeding with filing a grievance on behalf of employees at Greenville and they made this clear at the table.

7. **ISSUE:** Re: Domestic Violence memo issued September 25, 1998. The Union is requesting that the Agency provide the Union with the name of each institution in which employees were effected by the October 16, 1997 memorandum and the number of employees at those institutions.

**Response:** Management provided statistical information to the Union at the time of the discussion of this item and later in the week, provided the Union with updated information. The Union was satisfied with the information but stated that they were currently doing research on the issue to assess whether or not the Agency has violated the law. They would like the Agency to pay for the legal counsel

retained by those employees who were required to clean up their record in order to stay employed by the Bureau. The Union stated that they may file a grievance, depending on the outcome of their research.

8. **ISSUE:** The Union would like to know what institutions are vacating posts or positions throughout the Bureau, along with the total savings the Bureau has realized over the past two years in holding positions, vacating positions, etc. A related issue raised was overcrowding, e.g., vacating correctional posts in institutions which are already overcrowded (whether or not they have lock-down capabilities) and placing more high custody inmates into medium-security institutions.

**Response:** Management indicated that it is at the institution's discretion to designate which posts will be vacated. The Union's concern is that they believe that Wardens are being required to cut posts and vacate positions in order to save money. The Union also stated that the inmates know that they can get away with more because there are less staff to respond to problems, especially on the morning watch when there are the fewest amount of staff. Management stated that the Agency does not want to put staff in jeopardy by vacating posts and the Union should be bringing specific safety concerns up with the Regional Directors.

9. **ISSUE:** The budget allocated to the Bureau by Congress. The Union is requesting a breakdown of how the Bureau is using these funds and avoiding staffing each institution as budgeted by Congress.

**Response:** Management reiterated what had been covered at previous LMR meetings, i.e., the cutting of 760 positions, the overall budget process, and not being able to use B&F construction money for salaries and other operating costs. In addition, Management stated that it has been shown that for every million dollars the Agency saves, approximately only three cents is taken off the per capita nationwide. This was a discussion item only.

10. **ISSUE:** The Union would like a breakdown of how many Executive Staff



moves have been made in the past two years. Included in this request is cost per transfer, if home was sold, cost of homes, if government paid for homes, etc. The Union is set on assisting the Agency in cutting costs; this may be an area of savings.

**Response:** Management provided the Union with a general assessment of how much moves cost and how many moves there are per year; there was less spent on moves this year than last year. The Union requested documentation on relocations and how the Agency handles them. This documentation was provided to the Union after the discussion.

11. **ISSUE:** The Union would like to set dates and places for upcoming LMR Quarterly Meetings through September 1999.

**Response:** The following dates were approved by Management and the Union: Weeks of January 18, April 19, July 26 and October 25, 1999. The location of the meetings will be agreed upon by Management and the Union at another time, but well in advance of the meetings.

12. **ISSUE:** The Union requests a discussion concerning Executive Staff decisions for the past year. They have only been informed after the decisions go to the field. The Council has not been receiving these decisions formally and therefore any decisions not sent to the Council would still be timely to bargain (since at least March 9, 1998). The Union requests a list of items decided by the Executive Board.

**Response:** Management stated that there are many times when even they do not know what decisions are made until they come out in the form of a policy. The Union's concern is that Management at the local level is finding out about decisions, implementing new procedures without negotiating and using the rationale that it is based on an Executive Staff decision. According to the Union, this circumvents the Union and Management still needs to negotiate changes to working conditions. Management responded that they are educating Wardens, Associate Wardens and Human Resource Managers about their bargaining obligations, and that just because the Executive Staff make a decision, this does not preclude appropriate negotiations with the Union.

13. **ISSUE:** The Union requests a discussion concerning the difference between workgroups and formal bargaining, i.e., that workgroups are not bargaining. Management must still formally notify the Council that it plans to implement something that changes working conditions or conditions of employment.
- Response:** Management stated that there was an HRMD article that went out a few months ago that spoke to this issue. Also, Management emphasized that bargaining unit members, while serving on workgroups, need to speak up and state the Union's perspective. The Union stated that some of the Union's representatives may be intimidated a bit by Management. However, the Union stated that they would plan on directing those Union workgroup representatives to voice their concerns while participating on the workgroups.
14. **ISSUE:** The Council would like it emphasized to managers that non-custody staff working custody posts should receive proper SILs (significant incident logs), or credit for working security posts.
- Response:** The Union stated that feedback from local presidents show that this credit is not being given to staff. Management stated that credit should be given to non-custody staff working custody positions. Both Management and the Union agreed that inclusion of this issue in the minutes would be sufficient to emphasize the need to rectify this situation wherever it is occurring.
15. **ISSUE:** Implementation before Negotiation: Wardens are not notifying the Local President by certified mail and not allowing 30 calendar days prior to implementation.
- Response:** The national Union stated that the Union at the local level is not being notified via certified mail in regard to local policies that reflect changes in working conditions. Management stated that this should be happening because the Master Agreement covers this issue, i.e., that local policies should be delivered via certified mail.
16. **ISSUE:** The Union requests that the Agency issue a memorandum to the field that the memorandum sent out by Mr. Hershberger on September 8, 1998 has not been negotiated by the national Union

and is not in effect at this time. If this is not done, the Union will continue the processing of its ULP.

**Response:** Management stated that they were of the impression that Regional Directors and Wardens were recently given further guidance on this issue. Although the Union has filed a ULP, Mr. Chapin indicated that he and Mr. Glover have been working on a memorandum for the Director's signature which will clarify many re-engineering and per capita issues. The Union indicated it would consider withdrawing the ULP contingent upon the memorandum being finalized and issued.

17. **ISSUE:** The Union requests to discuss the provisions in Article 32, Section b(3,4) of the Master Agreement, regarding the selection and payment of arbitrators from FMCS. The Union would like to work out this problem, i.e., the cost of requesting second panels of arbitrators, with a Memorandum of Understanding.

**Response:** For the time being, this problem seems to be related to an isolated case. If the problem continues, guidance will be given to the field as to how to interpret this section of the Master Agreement.

18. **ISSUE:** Since March 9, 1998, the Union believes that the Agency has deliberately not been complying with the Master Agreement. The Union would like Management to issue a memorandum to the field explaining that they must follow the Master Agreement.

**Response:** Management stated that, although the Union doesn't follow the Master Agreement across the board either, they are doing everything possible to enforce the Master Agreement via teleconferences with Human Resource Managers and presentations at Wardens and Associate Wardens conferences. It takes time for people to accept change and change attitudes. Management and the Union agreed they need to work together to accomplish both of these.

19. **ISSUE:** If a policy has wording that affects or contradicts the Master Agreement, this is considered a violation of the Agreement. If a policy which contains contradictory language is sent out to the institutions, the Union will consider this a ULP on the part of the

Agency.

**Response:** This issue was dropped by the Union.

20. **ISSUE:** The Union, represented by the closest local, wants to negotiate a supplemental agreement at the CCM office in Phoenix.

**Response:** This issue was dropped by the Union.

21. **ISSUE:** Custody Rosters: Changes, e.g., vacating of posts, are not being reflected on the roster by the Correctional Supervisor. Therefore, the employee is responsible for the post he/she is working and the one he/she is on the roster to work. These rosters can be used in courts of law to determine accountability. (El Reno, Three Rivers, Ft. Worth)

**Response:** Per Management, policy says this should not be occurring. However, the Union contends that compensatory time is not being recorded in the employees' T&As. They gave the example of a supervisor allowing an employee to go to a doctor's appointment while technically on the clock and then allowing the employee to make up the time another day. There is no tracking of this activity and no leave slips are being filled out according to the Union. Management emphasized that the Correctional Services Manual clearly states that all changes to the roster are supposed to be recorded. If this is not happening, according to Management, there may be a liability issue, e.g., if a staff member gets hurt while traveling to the doctor but he or she is supposed to be on the clock at work. The Union also stated that at one institution, staff are being permitted to take unofficial compensatory time off for working other assignments on their days off. None of this time, according to the Union, is being recorded. Therefore, some time sheets may show a staff member at work when they are not. The Union went on to say that they have brought this issue to the attention of the HRM at the particular institution where this is allegedly occurring in three departments (Food Services, Recreation and Education). Management asked for a memorandum explaining the situation, what was done to try and rectify it at the local level, and the details surrounding the allegations so that a proper investigation could be started. The Union agreed to provide a

memo. In return, the Union asked Management for a memo providing closure once the issue has been resolved. Management agreed to this request. In addition, Mr. Thompson will speak to the Executive Staff in December about this general issue.

22. **ISSUE:** At El Reno, favoritism toward certain bargaining unit members, e.g., having three-day weekends and T&As reflecting differences in what was actually worked.

**Response:** Management asked the Union to provide a memo explaining the situation at El Reno in detail. The Union agreed to this request.

23. **ISSUE:** Staff at El Reno have a problem with the agreement in regard to hard toe boots and shoes, i.e., they want the agreement revised to reflect where staff can purchase boots/shoes and the amount the Agency will supplement.

**Response:** The Union asked for clarification of what constitutes the designated foot hazard areas. Management responded that each institution designates these areas locally. In addition, all staff do not need hard toe boots or shoes. For example, secretaries do not need these kind of boots or shoes because they are not assigned to those foot hazard areas. However, they can still respond to emergencies which may take them through a foot hazard area.

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❖ **P.S. 5214.04: PROCEDURES FOR HANDLING OF HIV POSITIVE INMATES**

Since proposals from the Union were received the day before the meetings began, Management asked to address this policy at the next meeting. The Union agreed with this.

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❖ **FACILITIES DEVELOPMENT TECHNICAL REFERENCE MANUAL**

- ***Proposal 1: Office space for Correctional Officers.*** Per previous verbal agreement during May 1998 LMR Meeting, both parties signed off on specific language incorporating a change to the blueprint which reflects a "Counselor's room/officer's space".
- ***Proposal 2: Partitions in Unisex Bathrooms.*** "To resolve a concern raised by the Union concerning the privacy of staff in unisex staff bathrooms, the Agency agreed that in new facilities, partitions would be installed in these bathrooms." This statement was signed off on by both parties.
- ***Proposal 3: Safe harbor areas.*** The Union's concerns were reiterated from the last meeting. These concerns included having somewhere to lock themselves away in the event of an emergency until other staff can get there. They understood that if the inmates burn the room down around them, there is nothing Management can do to prevent this from occurring. Management agreed to change the locks on the closets of new institutions so that closets may be used as safe harbor areas. However, Management stated that staff will have to locally determine what are considered safe harbor areas and plan accordingly. The Union agreed to this.

❖ **P.S. 1210.08: MANAGEMENT CONTROL AND PROGRAM REVIEW**

Since proposals from the Union were received the day before the meetings began, Management asked to address this policy at the next meeting. The Union agreed with this. However, it was agreed that certain proposals and issues would be discussed during this meeting for informational and clarification purposes (on both sides).

- ***Proposal 1:*** Who will be members of the review team and how are they selected? The Union would like to be included in the process of selection and feel that line staff should not be auditing other line staff. Management stated that many line staff volunteer to participate as members of the review teams, often more than once. This indicates that they are part of the process already, and both Management and line staff enjoy this teamwork. There was some discussion concerning the cost of the program as well.
- ***Proposal 2:*** Chap. 2, page 5, par. c(1), last sentence. The Union's concern with this sentence is that it prompts Wardens, if they have an agenda against a particular employee, to report trouble in that employee's area. Management explained that this is not a means of identifying a specific employee, but rather it is a way of focusing on things that may need addressing, e.g., selling an item in the commissary. The Union was satisfied with this explanation.
- ***Proposal 6:*** Chap. 2, page 18, par.I. The Union asked for clarification as to who constitutes being considered "an outside party" in the event of an FOIA request. Management stated that this refers to such entities as an outside, non-BOP agency. Management also stated that if a staff member wanted a copy of Program Review's working papers for his or her discipline, he or she was entitled to it.



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❖ **P.S. XXX-98: WORKER-TRAINEE EMPLOYMENT PROGRAM**

After there was some discussion concerning the history and purpose of the Worker-Trainee Program, the following language changes were agreed upon by both Management and the Union:

- Under Section 2 (entitled “Responsibilities”), add a Subsection (e) which will be entitled “*Bargaining Obligations*” and read “*It is understood that Management reserves the right to determine where worker-trainee positions will be placed, and how they will be filled. However, impact and implementation negotiations concerning the placement of such positions will take place in accordance with the Master Agreement.*”
- Under Section 5(b,4) entitled “Benefits”, add a bullet which reads “*Individuals hired under the Worker-Trainee Employment Program, whose positions are in the bargaining unit, will be entitled to join the Union and will be covered by the Master Agreement.*”
- At Section 9b entitled “Reporting Requirements”, move the word “*voluntarily*” from after “*initiative*” to after “*Information relevant to Welfare assistance will be*”. The sentence will then read “*Information relevant to Welfare assistance will be voluntarily collected directly from all new hires entering on duty, including new employees not hired under this initiative, using the Worker-Trainee Program (OPM Form 1635) (Attachment D).*”
- Still at Section 9b, but on page 8, paragraph 2, insert the following sentence at the end of the paragraph: “*In addition, this form must be destroyed after processing.*”
- Still at Section 9b and page 8. Remove the last sentence of paragraph 4 which reads “*Employing HRM Offices are encouraged to keep any other relevant data that could later be used for informational/statistical purposes to identify various obstacles impeding the possible employment or retention of Welfare recipients.*”

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❖ **P.S. 5251.XX: INMATE WORK AND PERFORMANCE PAY PROGRAM**

This policy was withdrawn by the Union.

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❖ **EMPLOYEE SPEECHES AND PUBLICATIONS REVIEW PROCESS**

To help clarify the Bargaining Unit's concerns, Management proposed the following paragraphs be added at the end of the Section I - Purpose and Scope in place of the bargaining unit's proposal:

“This policy shall not restrict the Union's role in representing bargaining unit employees in their day-to-day, labor management relations as outlined by law, the Hatch Act, and Federal Labor Relations Authority decisions. Union officials will be allowed to represent the Bargaining Unit in their official capacity (e.g., providing interviews with the print or broadcast media, placing advertisements in newspapers, appearing on public talk shows and radio stations, and speaking at conferences and conventions) without fear of reprisal from the employer or representatives of the employer.”

The Union signed off on the above language.

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❖ **P.S. 3420.XX - STANDARDS OF EMPLOYEE CONDUCT**

It should be noted that the Union timely requested for this policy to be negotiated during the November 1998 meeting. However, due to the unavailability of the Subject Matter Expert, it was mutually agreed that negotiations on this policy would be postponed until the January 1999 LMR Meeting.